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VICKI COCCHIARELLA  
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CHAIRMAN  
GEORGE GOLIE  
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DOUG MOOD  
BRAD NEWMAN  
MARK NOENNIG

# Montana Legislative Council

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November 29, 2001

## MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division.

**Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

### **COMMITTEE MEMBERS PRESENT**

Sen. Tom Beck, Chairman  
Rep. Kim Gillan, Vice Chairman  
Sen. B.F. "Chris" Christiaens  
Sen. Vicki Cocchiarella  
Sen. Mack Cole  
Sen. Fred Thomas  
Rep. George Golie  
Rep. Doug Mood  
Rep. Mark Noennig

### **COMMITTEE MEMBER EXCUSED**

Sen. Steve Doherty  
Rep. Daniel "Dan" McGee  
Rep. Brad Newman

### **STAFF PRESENT**

Lois Menzies, Executive Director, LSD  
Greg Petesch, Legal Director, LSD  
Miko Owa, Secretary (Transcribed by Lois O'Connor)

### **VISITORS**

Visitors' list (ATTACHMENT #1)

Agenda (ATTACHMENT #2)

**COMMITTEE ACTION**

- Approved the minutes from the September 21, 2001, meeting
- Accepted a recommendation from the Children, Families, Public Health and Human Services Interim Committee that the Senate Joint Resolution No. 8 study on the privatization of foster care and adoption services not be conducted at this time
- Approved a \$320 subscription price for a full set of annotations and a \$31 single-volume subscription price
- Reaffirmed the Legislative Council's guidelines on legislator claims for reimbursement of interim activities
- Approved the creation of a Subcommittee on Strategic Issues--Representatives Noennig and Golie and Senators Thomas and Cocchiarella were appointed
- Appointed Representatives Noennig and Newman and Senators Doherty and Beck to the Subcommittee on Multiple MCA Sections
- Approved the transfer of \$267,380 into the LSD personal services budget for the purpose of implementing the market progression pay adjustment for Legislative staff

**CALL TO ORDER**

The meeting was called to order by Sen. Beck, Chair, at 1:00 p.m. Attendance was noted; Senator Doherty and Representatives McGee and Newman were excused. (ATTACHMENT #3)

The minutes from the September 21, 2001, meeting were approved unanimously.

**UPDATE ON CAPITOL SECURITY ISSUES**

**Mark Peck, Security Officer, General Services Division, Department of Administration,** provided an overview of the State of Montana Strategic Security Plan. (EXHIBIT #1)

Following a series of questions, the Council found that:

- the two additional Highway Patrol officers assigned to the Governor's Office for the purposes of security were additional staff, not a shifting of two officers from one area to another;
- the strategic security plan would be presented as a Department of Administration budget proposal in the 2003 Session;
- the Department submitted information to FEMA in anticipation of up-front federal resources;
- the Department's immediate goals are to have electronic surveillance within the Capitol using the existing television system if possible; outside camera placements to give coverage of the Capitol Complex; and some enhanced coverage of the basement of the Mitchell Building because of the state's computer system.
- the future goal is to expand surveillance in key positions throughout the Capitol Complex; and
- the Department preferred legislative involvement in the planning process from the ground floor of the proposal.

Sen. Christiaens suggested that more emphasis be placed on security officer duties rather than political patronage when hiring legislative staff during the sessions.

**Lois Menzies, Executive Director, Legislative Services Division (LSD)**, provided an excerpt from a draft report on security measures in state capitols (i.e., significant security responses from various state regarding the September 11 terrorist attacks) and a National Conference of State Legislatures (NCSL) state-by-state summary on security measurers in state capitols. (EXHIBITS #2 and #3 respectively)

**RECOMMENDATION FROM THE CHILDREN, FAMILIES, PUBLIC HEALTH AND HUMAN SERVICES INTERIM COMMITTEE**

**Susan Fox, Research Analyst, LSD**, provided a letter on behalf of the Children, Families, Public Health and Human Services Interim Committee requesting that the Senate Joint Resolution No. 8 study on the privatization of foster care and adoption services not be conducted. (EXHIBIT #4)

Sen. Christiaens said that he sponsored SJR 8 because of the huge problem within the Department of Public Health and Human Services (DPHHS) related to the foster care system. He said that he had become a foster parent before Thanksgiving and has never received a payment from the Department for over two months of foster care. In addition, caseworker responses to questions regarding his foster child were less than forthcoming. Although he was unsure whether privatization was the answer, he requested that Department staff combine all information received from the legislative audits and the various other foster care studies into one report for the Legislature's review in the 2003 Session.

Council member also heard that members of the Children, Families, Public Health and Human Services Committee felt that a full-blown privatization study on a Division that was already under distress was a monumental task to perform between November 2001 and end of the interim. The problems within the Child and Family Services Division regarding foster care was a statewide problem rather than a local one because of caseworker workloads.

**Chuck Hunter, Child and Family Services Division, DPHHS**, said that the Department knows what services foster and adoptive families want but providing those services takes money. Privatization needs to be funded, and in his many years of experience in state government, he has seen very few instances where services can be put into private hands more cheaply than what can be provided by the government. For foster and adoptive families, there may be benefits to receiving services by a private provider but he was unsure as to the extent of those benefits. Mr. Hunter said that in the past, the Department has reviewed privatization and what other states have done in this arena, and the results have not been favorable.

Sen. Christiaens said that the whole purpose of his privatization proposal was to establish a pilot program for observation purposes. It was never his intention that the state get out of the foster care and adoption business.

Mr. Hunter was concerned about the timeliness for the completion of the audits, both legislative and federal, before the next legislative session. However, to the extent that he could, he would combine the results from audits, prepare a narrative, and bring forth some recommendations for legislative consideration.

Sen. Beck will request assistance from NCSL on what other states are doing in the arena of foster care and adoption services; Ms. Fox will provide a bibliography on the privatization of

foster care and adoption services; and Sen. Cocchiarella will contact the University of Montana Research Department to see if there would be an interest from a student in graduate studies on doing an internship or study project regarding this area.

Sen. Thomas **moved** to accepted the recommendation from the Children, Families, Public Health and Human Services Interim Committee that the Senate Joint Resolution No. 8 study on the privatization of foster care and adoption services not be conducted at this time. Motion passed unanimously.

#### **REPORT FROM SUBCOMMITTEE ON APPOINTMENTS TO INTERSTATE AND INTERNATIONAL COMMITTEES, ADOPTION OF RECOMMENDATIONS**

Sen. Thomas provided a summary of the Subcommittee's proposed Legislative Council Rule to implement section 5-11-301, MCA,--procedure on appointments to interstate and international committees. (EXHIBIT #5)

Some Council members found no fault with the Legislative Council being the appointing entity to establish delegations and committees to interstate and international activities while others felt that the language in the proposed rule was too strict and did not allow for vacancies of appointed people. The Council delayed action on the proposed rule to allow for further discussion at a future meeting.

#### **UPDATE ON ANNOTATIONS AND APPROVAL OF SALE PRICE**

**Greg Petesch, Director, Legal Services, LSD**, said that the annotations are primarily used by practitioners of law and are digests of Supreme Court decisions, summaries of Attorney General opinions, collateral references to encyclopedias, and references to law review articles that discuss the text of a particular area of law. Historically, the annotations had hard binders, and each title of annotations was published in a separate pamphlet and placed in the binders. Since the annotations expand after every session, the LSD staff decided to print the annotations in a format identical to the way the codes are printed.

Because of the decline in annotation sales, staff has decreased its bid specification to 850 sets at a bid price of \$121,800. However, the number of pages determines the final cost. He recommended a \$320 subscription price for a full set of annotations and a \$31 single-volume subscription price. Anticipated shipment dates are February, May, and August 2002.

Sen. Thomas **moved** that the Council except the \$320 subscription price for a full set of annotations and a \$31 single-volume subscription price. Motion passed unanimously.

#### **REVIEW OF GUIDELINES FOR REIMBURSEMENT OF LEGISLATOR CLAIMS**

Ms. Menzies provided a summary of laws, rules, and guidelines related to legislator claims for reimbursement of interim activities. (EXHIBIT #6)

The Council discussed the possibility of establishing an appeals process by having two Council members conduct a review on a staff reimbursement decision if there was a legislator complaint; requested that the guidelines be distributed and discussed by staff at future interim committee meetings; and requested that the guidelines be printed on the back of the reimbursement forms when the forms are reprinted.

Sen. Cocchiarella **moved** that the Legislative Council's guidelines on legislator claims for reimbursement of interim activities be reaffirmed. Motion passed unanimously.

### **UPDATE ON STRATEGIC ISSUES**

Ms. Menzies summarized the approaches identified during the last Legislative Council strategic planning session. (EXHIBIT #7) She also provided a summary of proposed LSD staff activities for assisting the Legislative Council in addressing the Council's strategic issues. (EXHIBIT #8) She requested that the Council consider creating a subcommittee to provide guidance and oversee the various initiatives that staff has proposed, particularly changes to the new legislator orientation session and the law school for legislators.

Rep. Golie **moved** that a Subcommittee on Strategic Issues be appointed. Motion passed unanimously. Sen. Beck appointed Representatives Noennig and Golie and Senators Thomas and Cocchiarella to the Subcommittee on Strategic Issues.

### **OTHER BUSINESS**

#### **Review of Legislative Branch Financial Compliance Audit**

Ms. Menzies said that a financial compliance audit of the Legislative Branch is conducted biennially. The Legislative Audit Division contracts with a private, independent contractor to conduct the audit, avoiding potential conflict of interest. Audit findings for fiscal years 2000-2001 were received in October 2001. The audit found that the LSD financial schedules were prepared in accordance with state accounting policy, that its financial schedules present fairly the results of operations for both fiscal years, and the contractor made no recommendations for improvement. Ms. Menzies introduced staff who were responsible for the clean audit: Debbie Bunker, Lenore Adams, and Jennifer Murray. She also noted that Karen Berger is the manager of the Financial Services Office. The Council expressed its appreciation for the staff's good work.

#### **Appointment of Subcommittee on Multiple MCA Sections**

Sen. Beck appointed Representatives Noennig and Newman and Senators Doherty and Beck to the Subcommittee on Multiple MCA Sections to address issues associated with the passage of multiple versions of code sections.

#### **Market Progression Adjustment**

**Jim Kerins, Contracted Personnel Officer, Legislative Branch** provided an overview of the Legislative Branch market pay adjustment for the 2003 biennium. (EXHIBIT #9) He asked the Council to approve the transfer to the LSD budget of \$267,380 from the \$434,498 appropriated in HB 13 during the 2001 Session to fund a market-based pay adjustment for LSD staff. As part of this proposal, Lois Menzies' salary would increase to \$78,252 annually.

The Council discussed the evolution of the pay plan from 1990 to date. Rep. Mood, on behalf of Rep. McGee, expressed Rep. McGee's concern that the pay plan was based on years of service rather than merit. Sen. Beck noted that LSD does not currently have a merit system in place but is working toward that goal.

Sen. Thomas **moved** that \$267,380 be transferred to the LSD personal services budget for the purposes of implementing the market progression pay adjustment. Motion passed unanimously.

### **DEMONSTRATION OF INFORMATION REQUEST SYSTEM**

Ms. Menzies provided a summary of the Legislative Branch Information Request System (EXHIBIT #10) while **Mark Javornik, Office of Information Technology, LSD**, provided a demonstration of the System.

Sen. Thomas asked if legislators could request bill drafts on the system. Ms. Menzies said the system is an internal tool for use by the three Legislative Divisions to track and respond to requests for information. It is not available for outside entities or for legislators to access to request bill drafts.

### **CONTINUATION OF OTHER BUSINESS AND ADJOURNMENT**

The next Legislative Council meeting is scheduled for January 25, 2002.

Sen. Christiaens requested that information be heard from the people involved with the methamphetamine lab cleanup activities in Montana. Following a brief discussion, the Council felt that the request would be better served if it were referred to the Environmental Quality Council (EQC).

There being no further business, the meeting adjourned at 5:00 p.m.

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